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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/980,163	11/30/2001	M'Hammed Mountassir	14081-1US JA/ld	1250
20988	7590	02/09/2004	EXAMINER	
OGILVY RENAULT 1981 MCGILL COLLEGE AVENUE SUITE 1600 MONTREAL, QC H3A2Y3 CANADA			MARSCHEL, ARDIN H	
			ART UNIT	PAPER NUMBER
			1631	
DATE MAILED: 02/09/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/980,163

Applicant(s)

MOUNTASSIR, M'HAMMED

Examiner

Ardin Marschel

Art Unit

1631

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 18 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 14 November 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: of reasons of record and responses to arguments as attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ ~~will~~ <sup>have been</sup> entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: 25-52.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_.
10. ☒ Other: Attachment: Copy of Ex. Int. Sum. of 10-28-03

## **DETAILED ACTION**

### Further Explanation of item # 5 on the attached Advisory Action:

#### **INTERVIEW SUMMARY RECORD**

It is acknowledged that applicant has supplied a summary of the Interview of 10/28/03 in the submission, filed 12/18/03. This summary is substantially agreed with. One exception, however, is noted in that the summary indicates that allowability of claims, if amended, would be indicated in a following advisory action. The interview discussion from the Examiner instead indicated that certain claim amending may overcome the prior art rejections of record and that the amended claims would then be reconsidered and indicated as allowable if no further issues remained that supported any further rejection(s) and/or objection(s).

#### **PRIOR ART**

The rejections based on prior art in the final action, mailed 8/14/03, are maintained and reiterated. Applicant's response, filed 12/18/03, has not amended the claims corresponding to prior art issues of record as discussed in the above noted Interview, but instead sets forth a specific argument regarding the Martin et al. reference.

The argument against Martin et al. is directed to distinguishing weighting in Martin et al. over the instantly claimed weighting practice. The basis for this argument is that Martin et al. utilizes weighting which relates a single property value relative to the same single property value at different times whereas the instant invention utilizes weighting which distinguishes between different properties. In response, the argued weighting which specifically distinguishes between different properties is not set forth in the instant claims as an actual limitation. Therefore applicant is arguing a limitation which is not in the claims and thus moot in overcoming the rejection. A further response

to this argument is that applicant confusingly indicates that a property is the same whether its "value" is the same or not. A reasonable interpretation of a property which takes on different values is that such a differently valued property is a different property per se albeit differing only in value. It is suggested that, if applicant wishes to limit claim practice to require that a property is the same when only differing by a value thereof, then specific claim wording to indicate this is appropriate and required to establish such a claim limitation as a possible distinction over the cited prior art.

No claim is allowed.


Papers related to this application may be submitted to Technical Center 1600 by facsimile transmission. Papers should be faxed to Technical Center 1600 via the Central PTO Fax Center. The faxing of such papers must conform with the notices published in the Official Gazette, 1096 OG 30 (November 15, 1988), 1156 OG 61 (November 16, 1993), and 1157 OG 94 (December 28, 1993)(See 37 CFR § 1.6(d)). The Central PTO Fax Center number is (703) 872-9306.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ardin Marschel, Ph.D., whose telephone number is (571)272-0718. The examiner can normally be reached on Monday-Friday from 8 A.M. to 4 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward, Ph.D., can be reached on (571)272-0722.

Any inquiry of a general nature or relating to the status of this application should be directed to Legal Instrument Examiner, Tina Plunkett, whose telephone number is (571)272-0549 or to the Technical Center receptionist whose telephone number is (703) 308-0196.

February 4, 2004

  
ARDIN H. MARSCHEL  
PRIMARY EXAMINER